

Notice of Allowability

Application No.

10/679,265

Examiner

Melanie Tyson

Applicant(s)

MERVES, MICHAEL

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation with attorney of record, Stephen Soffen, on 12 September 2007.
2. ☒ The allowed claim(s) is/are 1 and 4-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

This action is in response to Applicant's amendment received on 26 June 2007.

Corrections made have been accepted.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Stephen Soffen on 12 September 2007.
3. The application has been amended as follows: claim 1, lines 6-7 - "wherein the cavity is provided with a hatch, the hatch having a tie-down bar attached to its inside and integral to the hatch for storing at least one strand of suture wrapped around the tie-down bar, the hatch being configured to..."

Allowable Subject Matter

4. Claims 1 and 4-22 are allowed. The following is an examiner's statement of reasons for allowance:

Claims 1 and 4-22 are allowed because the prior art fails to disclose or suggest in combination with other limitations of the claims, an elongated shaft, a cavity within a handle, and a hatch having a tie-down bar attached to its inside and integral to the hatch for storing a suture wrapped around, or coiled around, the tie-down bar, or a tie-down bar having a slot for storing a surgical needle attached to a suture, the hatch

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being configured to pivot together with the tie-down bar on its inside relative to the longitudinal axis of the elongated shaft. Modesitt fails to disclose a cavity within the handle, wherein the cavity is provided with a hatch having a tie-down bar configured to pivot relative to the longitudinal axis. Examiner agrees that the device of Modesitt, as shown in Figure 5, has a cavity within the elongated portion instead of within the handle.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bone (3,103,666) discloses a device (Figure 6) comprising an elongated shaft (38), a handle (40) having a cavity, a pivoting hatch (42), and a tie-down bar (92). Bone fails to disclose a hatch having a tie-down bar for storing a suture wrapped around, or coiled around, the tie-down bar, or a tie-down bar having a slot for storing a surgical needle attached to a suture.

Goble (5,584,860) discloses a device comprising handle having a cavity and a pivoting hatch (Figures 6 and 7). Goble fails to disclose a tie-down bar attached to the inside of the hatch and integral to the hatch for storing a suture wrapped around, or coiled around, the tie-down bar, or a tie-down bar having a slot for storing a surgical needle attached to a suture.

Keane et al. (2003/0204195 A1) discloses a device (Figure 7) comprising an elongated shaft (9), a housing having cavity, a pivoting hatch (11), and a tie-down bar attached to the inside and integral to the hatch (the protruding portion). Keane et al. fails to disclose a tie-down bar attached to the inside of the hatch and integral to the hatch

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for storing a suture wrapped around, or coiled around, the tie-down bar, or a tie-down bar having a slot for storing a surgical needle attached to a suture.

Lizardi (5,944,724) discloses a device (Figure 1) comprising an elongated shaft (26), a housing (24), a cavity (42) within the housing, and a pivoting hatch (44). Lizardi fails to disclose a tie-down bar attached to the inside of the hatch and integral to the hatch for storing a suture wrapped around, or coiled around, the tie-down bar, or a tie-down bar having a slot for storing a surgical needle attached to a suture.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Tyson whose telephone number is (571) 272-9062. The examiner can normally be reached on Monday through Thursday 8:30-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie Tyson 
September 12, 2007


(JACKIE) TAN-UYEN HO
SUPERVISORY PATENT EXAMINER